

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRUCE WOODS	:	
Petitioner,	:	Case No. 1:00cv803
v.	:	Judge Spiegel
WANZA JACKSON, Warden,	:	Magistrate Judge Black
Respondent.	:	

Warden Jackson's Status Report

1. Six months after being granted permission to do so, Mr. Woods conducted the deposition of his trial counsel.

2. Discovery was exchanged; Warden Jackson believes that the information provided by Mr. Woods resolves all factual disputes and obviates the need for an evidentiary hearing.

3. If, however, this Court should decide to hold an evidentiary hearing on the matter, the Warden intends to call as witnesses each of the attorneys and staff members of the Office of the Ohio Public Defender identified in Mr. Woods' discovery disclosure who were responsible for Mr. Woods' case. The Warden will call those witnesses to demonstrate that their failure to file timely pleadings on Mr. Woods' behalf is attributable to attorney neglect. The failings of Mr. Woods' post-conviction and habeas counsel are relevant because Mr. Woods may not be awarded equitable tolling for any time period during which he was represented by counsel according to *Coleman v. Thompson*, 501 U.S. 722, 753-54 (1991)(A habeas petitioner "bears the risk in federal habeas for all

attorney errors made in the course of the representation” because “the attorney is the petitioner’s agent when acting, or failing to act, in furtherance of the litigation.”); *see also Dunlap v. United States*, 250 F.3d 1001 (6th Cir. 2001).

Respectfully submitted,

JIM PETRO
Attorney General

s/J. Joseph Bodine, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2005, a copy of the foregoing *Status Report* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/J. Joseph Bodine, Jr.
J. JOSEPH BODINE, JR. (0042132)